

REMARKS

In response to the above-identified Final Office Action, no claims are amended, no claims are cancelled and no claims are added. Accordingly, Claims 1-3, 5, 6, 8, 10-12, 14-17, 19 and 20 are pending. Claims 1-3, 5, 6, 8, 10-12, 14-17, 19 and 20 are rejected. Reconsideration and withdrawal of the rejections of record are requested in view of such amendments and the following discussion.

I. Claim Rejections Under 35 U.S.C. §103

The Examiner rejects Claims 1-3, 6, 10-12, 15-17 and 20 under 35 U.S.C. §103(a) as being unpatentable over U.S. Patent No. 5,229,764 issued to Matchett ("Matchett") in view of U.S. Patent No. 5,910,999 issued to Mukohzaka ("Mukohzaka") and U.S. Patent No. 4,461,028 issued to Okubo ("Okubo"). Applicants respectfully traverse this rejection.

To establish a *prima facie* case of obviousness, the following criteria must be met: (1) there must be some suggestion or motivation to modify the reference or combine the reference teachings, (2) there must be a reasonable expectation of success, and (3) the prior art references must teach or suggest all the claim limitations. (MPEP §2142) For the reasons provided below, the Examiner is prohibited to establish a *prima facie* case of obviousness in view of the references of record due to Applicants' amendments.

Claim 1 recites the following claim features, which are neither taught nor suggested by the combination of Matchett in view of Mukohzaka and further in view of Okubo:

a data matcher to process the biometric data from the data collector to authenticate the user's identity, wherein the data matcher includes:
a data compiler, coupled to the database, the data compiler to integrate samples of data collected by the data collector collected over time to create a second identity reference and replace the first identity reference with the second identity reference to establish an updated first identity reference. (Emphasis added.)

As noted by the Examiner, Matchett is devoid of any teachings or suggestions with regards to the integration of samples of data collected from the user by the data collector over time to create a second identity reference. According to the Examiner, Mukohzaka teaches the integration of several fingerprint samples over time to create a reference image. However, Applicants respectfully submit that the reference image created by Mukohzaka occurs prior to authentication of a user using the reference image and once established, is not modified based on subsequent data collected from the user.

Subsequent to the authentication of the user, a data compiler may integrate samples of data collected from the user by the data collector over time to create a second identity reference. In other words, as recited by Claim 1, a second identity reference may be generated by the data compiler subsequent to authentication of the user's identity.

Hence, even assuming that Mukohzaka teaches integration of several fingerprint samples over time to create a reference image, this teaching does not occur subsequent to authentication of the user. Hence, Mukohzaka is strictly limited to establishing the reference image that will be used for authentication of the user prior to authentication of the user. Accordingly, Applicants respectfully submit that the Examiner fails to illustrate the teaching or suggestion from the combination of Matchett in view of Mukohzaka and further in view of Okubo with regards to a data compiler to integrate samples of data collected from the user by the data collector over time to create a second identity reference, as recited by Claim 1.

Furthermore, as noted by the Examiner, both Matchett and Mukohzaka are devoid of any teachings or suggestions for replacing the first reference pattern with the second reference pattern, as recited by Claim 1. As a result, the Examiner cites Okubo. Okubo teaches:

a memory having stored therein two image reference patterns, namely, an original reference pattern and the latest reference pattern. An impression pattern read by a reader is correlated with the latest reference pattern and when the patterns are found to match, the read impression is verified and the latest reference pattern in memory is updated with the use of the read impression pattern. If the patterns are found not to match by the collation, the read impression pattern is collated by the original reference pattern. When the two patterns are found to match by this collation, the read impression is verified. The original reference pattern is updated when desired. (See, Abstract of Okubo.) (Emphasis added.)

Based on the cited passage above, Applicants respectfully submit that Okubo fails to teach or suggest the replacement of a first identity reference with a second identity reference, as recited by Claim 1.

As indicated above, the latest reference pattern in memory is updated with the use of the read impression pattern, while the original reference pattern is updated when desired. In other words, the cited passage refers to updating of the latest reference pattern and the original reference pattern, and does not teach or suggest replacing of the latest reference or the original reference pattern. In fact, Okubo describes updating of the reference pattern as follows:

The reference pattern may be prepared in the following manner. The output signals from the image pickup unit are subject to A-D conversion to obtain an item of 8-bit (256 degree) digital data representing the color tone of each picture element P. The collection of these items of data will be referred to as a color tone pattern. When a read impression is found to be genuine by collation, the items of data (comprising 8 bits for each picture element) of the two color tone patterns are added for each picture element, and a threshold value predetermined for each picture element is subtracted from the result. The collection of the results of subtraction, which is also a color tone pattern, is used as a reference pattern. (col. 5, lines 6–19.) (Emphasis added.)

As further described within Okubo:

When the read impressions are verified by this collation, the original reference patterns in the memory 17 are updated by the pattern in the registers A and B individually. (col. 5, lines 49-52.) (Emphasis added.)

Accordingly, based on the cited passages above, Applicants respectfully submit that one skilled in the art would interpret the cited passages as teaching an update of the latest reference pattern and the original reference pattern and not replacement of the respective patterns, as suggested by the Examiner. Conversely, Claim 1 recites:

a data compiler to replace the first identity reference with the second identity reference. (Emphasis added.)

Accordingly, Applicants respectfully submit that the above-recited claim features of Claim 1 could only be arrived at through inappropriate hindsight.

Therefore, Applicants respectfully submit that the Examiner fails to establish a *prima facie* case of obviousness of Claim 1 over the combination of Matchett in view of Mukohzaka and further in view of Okubo, since the Examiner fails to establish that the prior art references teach or suggest all claim features of Claim 1. Accordingly, Claim 1 is patentable over the combination of Matchett in view of Mukohzaka and further in view of Okubo, as well as the references of record. Consequently, Applicants respectfully request that the Examiner reconsider the §103(a) rejection of Claim 1.

Regarding Claims 2, 3 and 6, Claims 2, 3 and 6 depend from Claim 1 and therefore include the patentable claim features of Claim 1, as described above. Accordingly, Claims 2, 3 and 6, based on their dependency from Claim 1, are also patentable over the combination of Matchett in view of Mukohzaka and further in view of Okubo. Consequently, Applicants respectfully request that the Examiner reconsider and withdraw the §103(a) rejection of Claims 2, 3 and 6.

Regarding Claims 10 and 15, Claims 10 and 15 recite the following claims features, which are neither taught nor suggested by the references of record:

processing the biometric data to authenticate the user's identity;
storing a first identity reference and collected biometric data in a database;
sampling the collected biometric data over time;
integrating the samples of collected biometric data to create a second identity reference; and
replacing the first identity reference with the second identity reference to establish an updated first identity reference.

As indicated above, the reference image created by Mukohzaka occurs prior to authentication of a user; once established, the reference image is not modified based on subsequent data collected from the user. Conversely, subsequent to the authentication of the user, Claims 10 and 15 recite integrating samples of data collected from the user over time to create a second

identity reference. In other words, as recited by Claims 10 and 15, a second identity reference may be generated subsequent to authentication of the user's identity.

Hence, even assuming that Mukohzaka teaches integration of several fingerprint samples over time to create a reference image, this teaching does not occur subsequent to authentication of the user. Therefore, Mukohzaka is strictly limited to establishing the reference image that will be used for authentication of the user prior to authentication of the user. Accordingly, Applicants respectfully submit that the Examiner fails to illustrate a teaching or suggestion from the combination of Matchett in view of Mukohzaka and further in view of Okubo with regards to integrating samples of data collected from the user over time to create a second identity reference, as recited by Claims 10 and 15. (See, col. 5, lines 6-19 of Okubo.)

Furthermore, as noted by the Examiner, both Matchett and Mukohzaka are devoid of any teachings or suggestions for replacing the first reference pattern with the second reference pattern, as recited by Claims 10 and 15. As a result, the Examiner cites Okubo. However, for at least the reasons described above with reference to Claim 1, Okubo fails to teach or suggest the replacement of either the original or reference patterns, since Okubo is strictly limited to updating the reference patterns.

Therefore, Applicants respectfully submit that the Examiner fails to establish a *prima facie* case of obviousness of Claims 10 and 15, since the Examiner fails to illustrate that the references teach or suggest all claim features of Claims 10 and 15. Accordingly, Applicants respectfully request that the Examiner reconsider and withdraw the §103(a) rejection of Claims 10 and 15.

The Examiner rejects Claims 8 and 20 under 35 U.S.C. §103(a) as being unpatentable over Matchett, Mukohzaka and Okubo, as applied to Claims 3 and 15, and in further view of U.S. Patent No. 6,256,737 issued to Bianco et al. ("Bianco"). Applicants respectfully traverse this rejection.

Regarding Claim 8, Claim 8 depends from Claim 1 and therefore includes the patentable claim features of Claim 1, as described above. Regarding the Examiner's citing of Bianco, Bianco fails to rectify the deficiencies attributed to the combination of Matchett in view of Mukohzaka and further in view of Okubo, since Okubo fails to teach or suggest replacing of the original reference pattern.

Accordingly, Applicants respectfully submit that Claim 1 is patentable over Bianco. Consequently, Claim 8, based on its dependency from Claim 1, is also patentable over Bianco. Therefore, Applicants respectfully request that the Examiner reconsider and withdraw and §103(a) rejection of Claim 8.

Regarding Claim 20, Claim 20 depends from Claim 15 and therefore includes the patentable claim features of Claim 15, as described above. Regarding the Examiner's citing of Bianco, Bianco fails to rectify the deficiencies attributed to the combination of Matchett in view of Mukohzaka and further in view of Okubo, since Okubo fails to teach or suggest replacing of the

original reference pattern. Accordingly, Applicants respectfully submit that Claim 15 is patentable over Bianco. Consequently, Claim 20, based on its dependency from Claim 15, is also patentable over Bianco. Therefore, Applicants respectfully request that the Examiner reconsider and withdraw and §103(a) rejection of Claim 20.

The Examiner rejects Claims 5, 14 and 19 under 35 U.S.C. §103(a) as being unpatentable over Matchett, Mukohzaka and Okubo, as applied to Claims 3 and 17, and in further view of U.S. Patent No. 6,310,966 issued to Dulude ("Dulude"). Applicants respectfully traverse this rejection.

Regarding the Examiner's citing of Dulude, Dulude fails to rectify the deficiencies attributed to the combination of Matchett in view of Mukohzaka and further in view of Okubo, since Okubo fails to teach or suggest replacing of the original reference pattern. Accordingly, Applicants respectfully submit that Claims 1, 10 and 15 are patentable over Matchett in view of Mukohzaka and further in view of Dulude. Consequently, Claims 5, 14 and 19, based on their dependency from Claims 1, 10 and 15, respectively, are also patentable over Matchett in view of Mukohzaka and further in view of Dulude. Therefore, Applicants respectfully request that the Examiner reconsider and withdraw and §103(a) rejection of Claims 5, 14 and 19.

CONCLUSION

It is believed that all claims now pending, namely Claims 1-3, 5, 6, 8, 10-12, 14-17, 19 and 20 patentably define the present application over the prior art of record, and are therefore in condition for allowance; and such action is earnestly solicited at the earliest possible date. If the Examiner believes that a telephone conference would be useful in moving the application forward to allowance, the Examiner is encouraged to contact the undersigned at (310) 207-3800, ext. 738.

Respectfully submitted,

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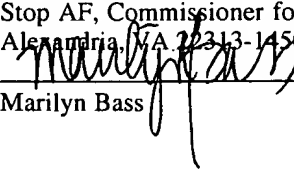
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I hereby certify that this correspondence is being deposited with the United States Postal Service as first class mail, with sufficient postage, in an envelope addressed to: Mail Stop AF, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450, on September 9, 2004


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September 9, 2004